

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6099**

**BILL NUMBER:** HB 1016

**NOTE PREPARED:** Nov 27, 2014

**BILL AMENDED:**

**SUBJECT:** Newborn Safety Incubators.

**FIRST AUTHOR:** Rep. Cox

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill has the following provisions:

- (1) Prohibits a person from installing or operating a newborn safety incubator unless the person is a qualified service provider that receives a license from the Indiana State Department of Health (ISDH).
- (2) Requires the ISDH to adopt rules concerning the licensing of the installation and operation of newborn safety incubators.
- (3) Requires a qualified service provider to:
  - (a) post a sign next to a newborn safety incubator; and
  - (b) remove the newborn safety incubator and the sign if the qualified service provider ceases operating the newborn safety incubator.
- (4) Makes it a Class A misdemeanor for a person to knowingly or intentionally install or operate a newborn safety incubator without a license, and a Level 6 felony if the offense results in bodily injury to a newborn.
- (5) Provides that a person who leaves a newborn in a newborn safety incubator is not obligated to disclose the parent's name or person's name.
- (6) Makes it a Class A misdemeanor for a person to knowingly or intentionally place: (a) any item, with exceptions; or (b) an individual other than a newborn; in a newborn safety incubator.

**Effective Date:** July 1, 2015.

**Explanation of State Expenditures:** *Summary:* This bill could (1) increase the workload of the ISDH to inspect and certify qualified service providers who elect to install newborn safety incubators, (2) increase state foster care costs, and (3) increase state incarceration costs if individuals are found guilty of operating a newborn safety incubator without a license. Potential increases in ISDH workload are expected to be offset

with licensure fees, and potential increases in state foster care costs are expected to be minimal.

*Additional Information:*

By allowing parents to anonymously drop infants off in safety incubators, this bill may increase the number of children in foster care. Foster care is jointly funded by the state and federal government, with the federal share being equal to the Federal Medicaid Assistance Percentage (FMAP), which is 66.52% for FFY 2015 and 66.13% for FFY 2016.

The Department of Child Services (DCS) reports that between 2008 and 2013, a total of 25 infants have been left with qualified service providers and placed in state foster care (an average of 4 infants per year). It is not known what impact this bill will have on Safe Haven infant surrenders in the state.

For every additional infant that is placed in state care as a result of this bill, state foster care expenditures could increase by \$2,300 per year. This figure assumes the lower end of the foster care per diem amounts for infants without special needs. However, increases in state foster care expenditures for each additional surrendered infant could be less than this amount as infants in foster care have a higher adoption rate than older foster youth.

*Penalty Provision:* The bill establishes two new criminal penalties that are punishable as Class A misdemeanors; (1) operating a newborn safety incubator without a license and (2) tampering with a newborn safety incubator. Operating a newborn safety incubator without a license is punishable as a Level 6 felony if bodily injury of the infant occurs.

A Level 6 felony is punishable by a prison term ranging from 6 to 30 months or reduction to a Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$19,497 in FY 2014. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,210 annually, or \$8.77 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$89,956 in FY 2014. However, any additional expenditures are likely to be small.

**Explanation of State Revenues:** *Summary:* The number of new licenses and the level of fees that will be established are not known. This bill could generate approximately \$24,000 in revenue from newborn safety incubator licensure fees if a minimum fee of \$1,000 is established by the ISDH and approximately 24 qualified service providers elect to install and operate a newborn safety incubator. Additionally, the state could receive revenue from civil penalties and fines paid by individuals who improperly operate or tamper with a newborn safety incubator. However, any additional revenue is likely to be small.

*Additional Information:*

There are 1,027 nonprofit organizations currently registered with the Indiana Secretary of State. It is not known how many of these organizations have been in operation for more than 10 years or how many of them have a purpose that would allow them to install and operate a newborn safety incubator.

There are approximately 130 licensed acute-care hospitals in the state. The Indiana Department of Homeland

Security (IDHS) estimates there are 830 firefighter departments, and the federal Bureau of Justice Statistics reports there were 361 law enforcement agencies in the state as of 2008. In all, there is a maximum of 2,350 potential qualified service providers who could elect to install and operate a newborn safety incubator.

The number of qualified service providers who may elect to install and operate a newborn safety incubator is unknown. If 1% of the maximum estimated qualified service providers were to install a newborn safety incubator, approximately 24 providers might apply for licensure from the ISDH.

It is not known how much the licensure fee for a qualified service provider will be. The minimum fee for hospital licensing is \$1,000 per hospital per year. If 24 providers were to pay a licensure fee similar to the minimum hospital license fee, an estimated \$24,000 in annual revenue could be generated for the ISDH to support inspection and certification of newborn safety incubators.

*Penalty Provision:* If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Level 6 felony is \$10,000 and for a Class A misdemeanor is \$5,000. However, any additional revenues would likely be small.

In addition to fines that might be assessed for Class A misdemeanor and Level 6 felony convictions, the bill allows the ISDH to impose a maximum civil penalty of \$10,000 against individuals who violate provisions of the bill governing newborn safety incubators.

**Explanation of Local Expenditures:** Local fire departments and law enforcement agencies that elect to install and operate a newborn safety incubator will (a) bear the cost of installing the incubator and (b) pay annual licensure fees to the ISDH. Increases in local expenditures will depend on decisions to install and operate a newborn safety incubator.

*Penalty Provision:* A Class A misdemeanor is punishable by up to one year in jail. Additionally, if more defendants are detained in county jails prior to their court hearings for Level 6 felonies, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

**Explanation of Local Revenues:** *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

**State Agencies Affected:** ISDH, ISP, DCS, DOC.

**Local Agencies Affected:** All.

**Information Sources:** Information on nonprofit organizations registered with the Indiana Secretary of State, <http://www.stats.indiana.edu/nonprofit/inp.aspx>; Jim Greeson, IDHS; Parvonay Stover, DCS; federal Bureau of Justice Statistics.

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